THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 7536 of 2005

-

Dated: 14.09.2005

Between:

V.Satyanarayana Murthy S/o.Subba Rao,
Paid Secretary, Gorinta PACS Peddapuram Mandal,

East Godavari District.

..... PETITIONER

AND

The District Coop.Officer Kakinada, E.G.District

and others.

ORDER:

Seeking a declaration that the action of the second respondent-Divisional Co-operative Officer, Peddapuram, East Godavari District, in directing the third respondent-Gorinta Primary Agricultural Co-operative Society, Peddapuram, to place the petitioner under suspension and pursuant to that directions suspending the petitioner, vide proceedings of the third respondent, dated 31.03.2005, is arbitrary and illegal, the present writ petition is filed.

The second respondent filed a counter-affidavit denying the allegations mentioned in the affidavit filed in support of this writ petition. However, the second respondent stated that if the petitioner is aggrieved by the impugned order, he can file an appeal before the Divisional

Co-operative Officer and prays to dismiss the writ petition.

Heard learned counsel for the petitioner and the learned Government Pleader for Co-operation, appearing for the respondents 1 and 2.

Learned counsel for the petitioner contended that the second respondent did not direct the third respondent to place the petitioner under suspension and on an earlier occasion the petitioner was suspended, but the same was revoked by the committee and therefore, there is no justification on the part of the third respondent in placing the petitioner under suspension for the self-same charges.

On the other hand, learned Government Pleader appearing for respondents 1 and 2 contended that the second respondent did not direct the third respondent to place the petitioner under suspension, however, there is an alternative remedy available to the petitioner to challenge the order of the third respondent dated 31.03.2005 and therefore, he prays to dismiss the writ petition.

The facts are not in dispute. The petitioner was placed under suspension on an earlier occasion in the year 1997 and that suspension order was set aside by the competent authority. However, for the self-same charges the impugned proceedings dated 31.03.2005 have been issued by the third respondent placing the petitioner under suspension. The disciplinary authority can suspend an employee. But, before suspending the employee, the authority must state the grounds upon which the employee is suspended.

A perusal of the impugned order shows that it was passed only on the directions issued by the second respondent on 30.03.2005. But, the proceedings dated 30.03.2005 issued by the second respondent does not indicate that any direction was given to the third respondent to suspend the petitioner. Therefore, it is totally non-application of mind by the disciplinary authority. In that view of the matter, the petitioner need not prefer any appeal since the impugned order, *ex facie,* suffers from infirmities.

Therefore, the impugned order dated 31.03.2005 is set aside and the writ petition is accordingly allowed. No costs.

15.09.2005

sh